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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/543,176	07/22/2005	Satoshi Senga	P28211	7914
52123 7590 06/02/2008 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191				
EXAMINER NEURAUTER, GEORGE C				
ART UNIT		PAPER NUMBER		
2143				
NOTIFICATION DATE		DELIVERY MODE		
06/02/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
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Office Action Summary

Application No.

10/543,176

Applicant(s)

SENGA ET AL.

Examiner

George C. Neurauter, Jr.

Art Unit

2143

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SG/IC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 09/30/2005, 10/25/2006, 04/08/2008

DETAILED ACTION

Claims 1-9 are currently presented and have been examined.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

The information disclosure statements (IDS) submitted on 30 September 2005, 25 October 2006, and 8 April 2008 were filed before the mailing of an action in the merits. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the

art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 1-9 recite "application communication service control". This limitation is not described in sufficient detail in order to enable one of ordinary skill in the art to perform any sort of "application communication service control" without undue experimentation.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6,795,407 B2 to Chesson.

Regarding claim 1, Chesson disclosed a communication control apparatus ("access point") comprising:

a detection section that detects at least one of a radio environment or a network environment; a management section that stores a detected radio environment or network environment, and

monitors whether or not a change has occurred in said radio environment or said network environment; and a control section that performs application communication service control when a change has occurred in said radio environment or said network environment. (see at least column 2, line 65-column 3, line 49, specifically column 3, lines 4-15)

Regarding claim 2, Chesson disclosed the communication control apparatus according to claim 1, wherein: said management section monitors environment changes in a lower layer than a transport layer in an OSI (Open System Interconnection) hierarchical model ("physical layer" involving the wireless communication medium such as frequency bands, etc.); and said control section performs communication service control by means of an application layer in accordance with an environment change in a lower layer than said transport layer. (see at least column 2, line 65-column 3, line 49, specifically column 3, lines 4-15)

Regarding claim 3, Chesson disclosed the communication control apparatus according to claim 1, wherein said control section comprises: a determination section that determines which environment has changed of a radio environment of radio communication performed by said communication control apparatus and a network environment to which said communication control apparatus belongs; and a decision section that decides on a

control operation for changing service when a change of said radio environment or said network environment satisfies a predetermined condition (e.g. "when the channel is noisy"). (see at least column 2, line 65-column 3, line 49, specifically column 3, lines 4-15)

Regarding claim 4, Chesson disclosed the communication control apparatus according to claim 3, wherein said determination section determines whether or not any one of a network to which said communication control apparatus belongs, field intensity, a user-specified item, or a modulation scheme has changed. (see at least column 2, lines 16-31 and column 2, line 65-column 3, line 49, specifically column 3, lines 4-15)

Regarding claim 5, Chesson disclosed the communication control apparatus according to claim 3, wherein said decision section changes operation relating to any one of service quality in network transmission, signaling information transmission/reception, or transmit data transmission/reception. (see at least column 2, lines 16-31 and column 2, line 65-column 3, line 49, specifically column 3, lines 4-15)

Regarding claim 6, Chesson disclosed the communication control apparatus according to claim 3, wherein: said control section changes further comprises a notification section that, when negotiation with a communicating station is necessary,

notifies said communicating station that a call involving said communicating station is to be updated; and said decision section decides on a control operation after a call has been updated. (see at least column 1, line 59-column 2, line 16 and column 3, lines 15-39)

Claims 7-9 are also rejected since these claims recite substantially the same limitations as recited in claim 1.

Conclusion

It is noted that the column, line, and/or page number citations used in the prior art references as applied by the Examiner to the claimed invention are for the convenience of the Applicant to represent the relevant teachings of the prior art. The prior art references may contain further teachings and/or suggestions that may further distinguish the citations applied to the claims, therefore, the Applicant should consider the entirety of these prior art references during the process of responding to this Office Action. It is further noted that any alternative and nonpreferred embodiments as taught and/or suggested within the prior art references also constitute prior art and the prior art references may be relied upon for all the teachings would have reasonably suggested to one of ordinary skill in the art. See MPEP 2123.

The prior art listed in the PTO-892 form included with this Office Action disclose methods, systems, and apparatus similar to those claimed and recited in the specification. The Examiner has cited these references to evidence the level and/or knowledge of one of ordinary skill in the art at the time the invention was made, to provide support for universal facts and the technical reasoning for the rejections made in this Office Action including the Examiner's broadest reasonable interpretation of the claims as required by MPEP 2111 and to evidence the plain meaning of any terms not defined in the specification that are interpreted by the Examiner in accordance with MPEP 2111.01. The Applicant should consider these cited references when preparing a response to this Office Action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Neurauter, Jr. whose telephone number is 571-272-3918. The examiner can normally be reached on Monday-Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn, can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George C. Neurauter, Jr./
Primary Examiner, Art Unit 2143